

EXHIBIT D

BAKER & MCKENZIE

Baker & McKenzie Ltd.
Attorneys at Law

5th Floor and 21st-25th Floors
990 Abdulrahim Place
Rama IV Road, Silom, Bangrak
Bangkok 10500
Thailand

Tel: +66 2636 2000
Fax: +66 2636 2111
bangkok.info@bakermckenzie.com
www.bakermckenzie.com

Asia Pacific

Bangkok
Beijing
Brisbane
Hanoi
Ho Chi Minh City
Hong Kong
Jakarta*
Kuala Lumpur*
Manila*
Melbourne
Seoul
Shanghai
Singapore
Sydney
Taipei
Tokyo
Yangon

**Europe, Middle East
& Africa**

Abu Dhabi
Almaty
Amsterdam
Antwerp
Bahrain
Baku
Barcelona
Berlin
Brussels
Budapest
Cairo
Casablanca
Doha
Dubai
Dusseldorf
Frankfurt/Main
Geneva
Istanbul
Jeddah*
Johannesburg
Kyiv
London
Luxembourg
Madrid
Milan
Moscow
Munich
Paris
Prague
Riyadh*
Rome
St. Petersburg
Stockholm
Vienna
Warsaw
Zurich

Latin America

Bogota
Brasilia**
Buenos Aires
Caracas
Guadalajara
Juarez
Lima
Mexico City
Monterrey
Porto Alegre**
Rio de Janeiro**
Santiago
Sao Paulo**
Tijuana
Valencia

North America

Chicago
Dallas
Houston
Miami
New York
Palo Alto
San Francisco
Toronto
Washington, DC

* Associated Firm

** In cooperation with
Trench, Rossi e Watanabe
Advogados

Certificate of Accuracy of Translated Document

1. I am an employee of Baker & McKenzie, Ltd., in Bangkok, Thailand. My job title is translator and my job responsibilities are to translate documents from English to Thai and vice versa.
2. My education background is Bachelor's Degree in English language from Thammasat University, Thailand. I am fluent in both written and spoken Thai and English.
3. I was asked to prepare an English translation of Supreme Court Judgment No. 7768/2557 dated June 17, 2014 (Civil), which was originally written in Thai.
4. I make this statement to certify that the English translation of the Court Judgment identified above that is attached hereto is, to the best of my knowledge and belief, true, accurate and complete translation into the English language.
5. By my signature below, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: August 11, 2016

(Rukmini Inwood)

(Translation)

(Official Emblem)

(31 bis)

For court use

Judgment

Certified true and correct copy.

-signature-

(.....)

Court Official, Experienced Level

Dated 2 December 2014

In the Name of His Majesty the King

Ref. No.7768/2557

Supreme Court

17 June 2014

Civil Litigation

between

Tsuburaya Productions Co., Ltd.

Plaintiff

vs.

Tsuburaya Chaiyo Co., Ltd.

Defendant

Re: Intellectual property, trade names, and tort

The Defendant appealed against the verdict delivered by the Central Intellectual Property and International Trade Court (the "**Central IP & IT Court**") dated 14 May 2007. The Supreme Court accepted the appeal on 7 November 2007.

(31 bis)

(Official Emblem)

For court use

The Plaintiff filed a complaint describing that it is a juristic person established on 12 April 1963 by Mr. Eiji Tsuburaya, the founder, who used his own surname that is a specific word in Japanese written in English as "Tsuburaya" and pronounced as "tsuburaya" for the registration as the company name with the Office of Justice of Setagaya District, Tokyo, using the Japanese name, which is spelled in English as "Tsuburaya Tokugi Productions Co., Ltd." read as "Tsuburaya Tokugi Productions Co., Ltd. (in Thai)." Then in 1968, the registration of the change of the aforementioned Japanese name was made. The word "Tokugi" was deleted and the Japanese name, spelled in English as Tsuburaya Productions Co., Ltd., translated into Thai is read as "Tsuburaya Productions Co., Ltd. (in Thai)." The Plaintiff has been using the aforementioned name, both in Japanese and English, in conducting its business up to the present which is about 40 years in total. In 1966, the Plaintiff created human-like figures under the name of Ultraman, including monsters for use in the Ultraman movie series. The Plaintiff created numerous literary and artistic works that can be classified as paintings, prints, photos, and applied arts, which are in the forms of human-like characters of the same family as Ultraman, and monsters. It also created several Ultraman movie series, each of the series with a different name. They have been distributed, and been used to seek commercial benefits, on a continuous basis, in Japan and other countries including Thailand, to date. The Plaintiff uses its own company name, which is written in English and Japanese, as its trade name, concurrently with the distribution of Ultraman series by licensing the rights in Ultraman works of the Plaintiff both in Japan and in other countries, including Thailand. The Plaintiff also specifies that the licensees of the right to use the characters of various Ultraman figures of the Plaintiff in the distribution of or use with merchandise must print the wording "© Tsuburaya Productions" or the abbreviated name of the company on the figures, which shall be on the labels or on the merchandise bearing the Ultraman characters, in order to ensure that the public knows that the licensed characters are copyrighted works of the Plaintiff. As a result, the name of the Plaintiff's company became well known within and outside Japan, including Thailand. The general public is well aware that the Plaintiff is the creator and the copyright owner of all Ultraman works. On 11 September 1996, the Defendant, represented by Mr. Peerasit Saengduenchai, the promoter, filed an application to register the incorporation of the Defendant using the name "Tsuburaya Chaiyo Co., Ltd. (in Thai)" and to use the English name of "Tsuburaya Chaiyo Co., Ltd." The word "Tsuburaya" in English and the word "Tsuburaya (in Thai)" which is translated from English and which is the specific name and the surname of Mr. Eiji Tsuburaya and members of the Tsuburaya family and the significant part to the name of the Plaintiff are used as the company name of the Defendant without authorization from the Plaintiff. On 7 October 1996, the Defendant filed an application to register the change in the spelling in the Thai name of the Defendant, from "บริษัท สีนุราชา ไชโย จำกัด" to "บริษัท สีนุราชา ไชโย จำกัด" with the name in English to remain "Tsuburaya Chaiyo Co., Ltd." The Defendant's use of the material part of the Plaintiff's

company name, i.e. the word "Tsuburaya" translated into Thai as "ทsuburaya", as part of the Defendant's registered name, without permission from the Plaintiff, and by adding the word "ไชโย" or "Chaiyo" at the end of the name, shows that the Defendant intended to imitate the Plaintiff's name, causing the public and general individuals that conduct business dealings with the Plaintiff to be confused, or misled, and understand that the Defendant represents the Plaintiff or was licensed by the Plaintiff to use the word "Tsuburaya," which is the Plaintiff's trade name, as the Defendant's trade name as well. This is because the company established by the Defendant operates a business similar to the Plaintiff's business, i.e. contract production of movies and licensing of works related to Ultraman created by the Plaintiff to other persons for the purpose of seeking commercial benefits. The Defendant specifies that the licensees shall print the wording on the Ultraman figures, which shall appear on the label or the merchandise, i.e. "© Tsuburaya Chaiyo" or "© Tsuburaya Chaiyo Co., Ltd." This action of the Defendant is deemed infringement of the right to use of the Plaintiff's name, the intentional infringement of the right to the Plaintiff's trade name, and the exercise of rights in bad faith, thereby causing damage to the Plaintiff. It is requested that the Defendant be forced to pay damages of Baht 120,000,000, together with interest at the rate of 7.5 percent per annum, from the date following the date of filing the complaint until payment has been made in full to the Plaintiff. It is requested that the Defendant be prohibited from using the name "บริษัท ทsuburaya ไชโย จำกัด" and "Tsuburaya Chaiyo Co., Ltd." in English, or the Defendant's company name shall not contain the words "ทsuburaya" and "Tsuburaya," and that the Defendant register the change of its company name to no longer contain the words "ทsuburaya" and "Tsuburaya." If the Defendant fails to do so, it is requested that the court issue an order to the Bangkok Partnerships and Companies Registrar, the Department of Business Development, the Ministry of Commerce, to revoke the registration of the Defendant's company name, prohibiting it from containing the words "ทsuburaya" and "Tsuburaya." The Defendant shall be prohibited from using the wording "© Tsuburaya Chaiyo" and "© Tsuburaya Chaiyo Co., Ltd." on product labels or on the merchandise licensed by the Defendant to other persons to use the rights in Ultraman-related works, or using the wording containing the word "Tsuburaya" and "ทsuburaya" on the aforementioned product labels or merchandise. It is also requested that the Defendant pay damages to the Plaintiff of Baht 100,000 per day from the date of filing the complaint until the Defendant stops its infringement, by registering the change in its company name not to contain the word "ทsuburaya" or "Tsuburaya" and cancels the use of such words on the product labels or the merchandise licensed by the Defendant to other persons to use the rights in Ultraman-related works.

The Defendant filed and amended its answer and filed a counterclaim as follows. The Plaintiff did not authorize Mr. Sampote Thienthong as its attorney to file and proceed with the case on the Plaintiff's behalf. As such, the Plaintiff is not entitled to file a complaint. The Plaintiff is registered as a juristic person in Japan under the name "Tsuburaya Productions Co., Ltd." which is translated into Thai as บริษัท ทsuburaya โปรดักชั่นส์ จำกัด, but the Plaintiff has never used the aforementioned name, in Japanese,

English, and Thai, in carrying on its business. The Plaintiff has always used the name in English for business operations as "Tsuburaya Prod." The inventions, movies, applied arts, characters, and monsters in the Ultraman movies were jointly created by Mr. Sompote Saengduenchai and the Plaintiff. In 1976, the Plaintiff transferred the copyrights and all rights and trademarks related to Ultraman characters owned by the Plaintiffs at that time, including the right to reproduce, develop, and adapt the works, and all other rights in relation to the characters and works to arise in the future, to Mr. Sompote Saengduenchai, with him having the rights for all territories except in Japan and for an indefinite period. After the date of execution of the aforementioned assignment agreement, the Plaintiff had no right to distribute, publish, or seek commercial benefits from the aforementioned inventions, movies, and applied arts, outside Japan. The Plaintiff has never operated any business or appointed its commercial agent in relation to the rights in Ultraman works, and has never authorized any person as a licensee in the distribution of Ultraman works in Thailand. When Mr. Kazuo Tsuburaya became the Plaintiff's president, a dispute in relation to the rights in Ultraman works occurred between Mr. Sompote Saengduenchai and the Plaintiff. The Plaintiff filed a complaint against Mr. Sompote Saengduenchai, et al., as defendants in a criminal case and a civil case with the Central IP & IT Court and with the Tokyo District Court, Japan. It was claimed that they infringed the copyright of the Ultraman works. The Defendants used the word in question because Mr. Sompote Saengduenchai, director and founder of the Defendant, had a close relationship with members of the Tsuburaya family, as if he was a member of the family. Mr. Eiji Tsuburaya considered Mr. Sompote Saengduenchai as one of his sons, and Mr. Sompote Saengduenchai once proposed an idea to create Ultraman works to Mr. Eiji Tsuburaya, and saved the Plaintiff from being commercially bankrupt. Mr. Eiji and Mr. Noboru Tsuburaya therefore allowed Mr. Sompote Saengduenchai to publicize the word "Tsuburaya" together with the distribution of the Ultraman works in the course of the business of Mr. Sompote Saengduenchai. In addition, the word "Tsuburaya" (in Thai) is a general Thai word and has no specific meaning, so the general public may use that word. The Plaintiff has never used the words "Tsuburaya" and "ทีนุรายา" commercially in Thailand, so it is not the sole owner of the rights or has exclusive rights in the words "Tsuburaya" and "ทีนุรายา" in Thailand. The Defendant's use of the words "Tsuburaya" and "ทีนุรายา" as part of its registered company name is to commemorate the virtue of Mr. Sompote Saengduenchai and his relationship with members of the Tsuburaya family. Moreover, the Plaintiff acknowledged and encouraged the Defendant to use the name because at the time of the registration of the Defendant in 1996, the Plaintiff accepted and respected the rights in the Ultraman works under the assignment agreement, and negotiated with Mr. Sompote Saengduenchai in order to jointly do business related to the Ultraman works. In Thailand, the Plaintiff agreed to Mr. Sompote Saengduenchai's establishment of the company and the use of "Tsuburaya" in its name. However, a dispute arose and it was the cause of the lawsuit filed by the Plaintiff against Mr. Sompote Saengduenchai et al., including the Defendant in this case. The Defendant registered and uses the words "Tsuburaya Chaiyo" and "ทีนุรายา ใจไทย" as its company name and has continuously used such

name commercially in relation to the Ultraman works in accordance with the right granted by Mr. Sompote Saengduenchai, both in Thailand and in other countries, which the Plaintiff is well aware of, but has never raised any objection thereto. If the action of the Defendant is to be deemed as infringement of the Plaintiff's right, it would be deemed that the Plaintiff had known the cause of infringement since 1996. The Plaintiff's recent filing of the complaint is therefore after the specified one year, and is therefore deemed precluded by prescription under law. The Defendant's use of the words "Tsuburaya" and "ซึบะรายา" is the exercise in good faith of the Defendant's right, as granted by Mr. Sompote Saengduenchai, and does not cause any damage to the Plaintiff. After the Plaintiff executed the agreement to assign the rights in Ultraman works, including trademarks, to Mr. Sompote Saengduenchai, the Plaintiff would no longer have the right to use the trade name as "Tsuburaya Productions" in Thai, English, and Japanese in the dissemination of Ultraman works outside Japan, including Thailand. The Plaintiff's description in its complaint that the Plaintiff has continuously used the trade name for distributing, publicizing, and commercial benefit-seeking outside Japan, including Thailand, is therefore infringement of the rights of Mr. Sompote Saengduenchai and infringement of the rights of the Defendant as commercial agent of Mr. Sompote Saengduenchai, thereby incurring damage to the Defendant. It is requested that the complaint be dismissed and the Plaintiff forced to pay Baht 100,000,000 in damages arising from the infringement from September 1996 to date, to the Defendant; Baht 20,000,000 in damages because the Defendant incurred expenses for advertising and providing clarification to the Defendant's customers, the mass media, and the general public that the Plaintiff had no involvement in the Defendant's continuous business operations; and Baht 100,000 in damages per day for future actions, from the day following the date of filing the answer and the counterclaim until the Plaintiff stops its infringement.

The Plaintiff provided its answer to the counterclaim. It described that it has never assigned copyrights, rights, and trademarks in relation to Ultraman characters and works, whether existing in 1976 or thereafter, to Mr. Sompote Saengduenchai. The aforementioned agreement is a false agreement and has no binding effect on the Plaintiff and no legal effect. The Defendant is not the name owner, the assignee, or the licensee to legally use the trade name "Tsuburaya" in Thai, English, and Japanese. The Defendant imitated and used the trade name of the Plaintiff, and Mr. Sompote Saengduenchai has no right in the Plaintiff's trade name. The Defendant who claimed that it is the commercial agent of Mr. Sompote Saengduenchai has no right to claim the licensing agreement as the grounds for filing the counterclaim to recover damages from the Plaintiff. This is because the Defendant, as commercial agent, would not have a right that is superior to the right of Mr. Sompote Saengduenchai. In addition, the Defendant has only recently used the trade name of "Tsuburaya" in Thai and English for its company, as it filed an application to reserve a name with the Phranakorn Sri Ayutthaya Provincial Partnerships and Companies Registration Office on 11 September 1996, after the Plaintiff had been using that name in its incorporation in Japan and publicizing the aforementioned trade name together with the distribution of the works related to Ultraman created by the Plaintiff,

both in and outside Japan, including Thailand, continuously from 1963 to date. The Defendant's claim of rights and use of the Plaintiff's trade name "Tsuburaya" in Thai and English for the application for registration without obtaining consent or permission from the Plaintiff in order to commercially compete with the Plaintiff in an unfair manner and mislead the public, is clearly infringement of the right to use the name and the trade name of the Plaintiff, and the exercise of rights in bad faith. Therefore, the Defendant is not entitled to file its counterclaim. The damages claimed by the Defendant are baseless, speculative, and without any claims. The Defendant was well aware of these facts from the registration of its company in September 1996 until the time the Defendant filed its answer and counterclaim. It may be deemed that the Defendant has known the claimed infringement and the person liable for compensation since September 1996. The Defendant's claims in its counterclaim are therefore after the specified one year, and its counterclaim is therefore barred by prescription. It is requested that the counterclaim be dismissed.

The Central IP & IT Court considered the matter and rendered its judgment that the Defendant pay Baht 10,000,000 in damages to the Plaintiff, together with interest at the rate of 7.5 percent per annum, from the day following the date of filing the complaint (31 August 2004) until full payment is made to the Plaintiff, that the Defendant be prohibited from using its name as "บริษัท ชินูรายูฯ ไซโย จำกัด" or "Tsuburaya Chaiyo Co., Ltd." or having the words "ชินูรายูฯ" or "Tsuburaya" in its name, and that the Defendant file an application to register the change of its company name to no longer contain the word "ชินูรายูฯ" or "Tsuburaya." If the Defendant fails to do so, the judgment of the court shall be substituted for a declaration of intention of the Defendant. The Defendant is prohibited from using the wording "© Tsuburaya Chaiyo" or "© Tsuburaya Chaiyo Co., Ltd." on product labels or on the merchandise. Other requests are dismissed. The Defendant shall pay the court costs on behalf of the Plaintiff. The lawyer's fee is fixed at Baht 80,000. The counterclaim shall be dismissed and the court costs with respect to the counterclaim shall be borne by the relevant party.

The Defendant filed an appeal with the Supreme Court.

The Central IP & IT Court reviewed the case and convene a meeting to discuss the case. It was found the following facts that are not objected to by the litigants at this stage. The Plaintiff is a juristic person established on 12 April 1963 in Tokyo. Mr. Eiji Tsuburaya used his own surname "Tsuburaya" for the incorporation. He used the Japanese name, which was translated into English as "Tsuburaya Tokugi Productions Co., Ltd." and in Thai as "บริษัท ชินูรายูฯ โตคุกิ โปรดักชั่นส์ จำกัด." Then the registration of change of the aforementioned name was made. The word "Tokugi" was deleted and the Japanese name is translated into English as Tsuburaya Productions Co., Ltd., and into Thai as "บริษัท ชินูรายูฯ โปรดักชั่นส์ จำกัด." Mr. Noboru Tsuburaya is the son of Mr. Eiji Tsuburaya, and Mr. Kazuo Tsuburaya, president and chief executive officer of the Plaintiff, is the son of Mr. Noboru Tsuburaya. The Plaintiff has been using the name "Tsuburaya" to operate its business to date. In 1966, the

Plaintiff created Ultraman works for use in the Ultraman movie series. The works are in the form of literary and artistic works which can be classified as paintings, prints, photos, and applied arts. They have been distributed, and been used to seek commercial benefits, on a continuous basis. Mr. Eiji Tsuburaya passed away in 1970 and Mr. Noboru Tsuburaya passed away in 1995. The Defendant is a limited company established on 11 September 1996 by Mr. Sompote Saengduenchai and his son, Mr. Peerasit Saengduenchai, who jointly incorporated and registered the Defendant under the name "บริษัท สีนุราชา ไซโย จำกัด" written in English as "Tsuburaya Chaiyo Co., Ltd." On 7 October 1996, the change of the Defendant's name with respect to the Thai spelling was registered, from บริษัท สีนุราชา ไซโย จำกัด to "บริษัท สีนุราชา ไซโย จำกัด" with the name in English remaining the same as "Tsuburaya Chaiyo Co., Ltd.", and which has been continuously used up to the date of filing the Plaintiff's complaint in this case. Around 1962, Mr. Sompote Saengduenchai went to Japan to study movie production at Toho Co., Ltd. In 1970, Mr. Sompote Saengduenchai was a trainee or worked in Japan with Mr. Eiji Tsuburaya. In 2004, the Plaintiff filed a complaint against the Defendant in this case as Defendant No. 1, with Mr. Sompote Saengduenchai as Defendant No. 2, and Mr. Peerasit Saengduenchai as Defendant No. 3, in a criminal and a civil case in relation to a criminal case due to infringement of the copyright in the creative works in relation to Ultraman of the Plaintiff. The Plaintiff claimed that all three Defendants in that case infringed the copyrights of the Plaintiff's Ultraman works. The three Defendants answered, in defense, that in 1970 Mr. Noboru Tsuburaya executed a licensing agreement granting to Mr. Sompote Saengduenchai, Defendant No. 2 in the aforementioned case, the exclusive right in Ultraman works outside Japan. The licensing agreement claimed by the Defendant in the aforementioned case is the same licensing agreement, submitted as Exhibit Jor. 7 or Lor. 5, claimed by the Defendant in this case. The aforementioned case became final while this case is pending the consideration of the Supreme Court. According to Supreme Court Judgment No. 7457/2550, the first issue that was considered is that during the time in which the Plaintiff created the Ultraman works, Mr. Sompote Saengduenchai was merely a student or trainee. He was not deemed by Mr. Eiji or Mr. Noboru Tsuburaya as having high status, and did not jointly invest money or effort in, or participate in the creation of, or jointly create the Ultraman works. Therefore, the Plaintiff is the sole owner of the copyrights of the Ultraman works. The second issue that was considered is that the licensing agreement granting the rights to Mr. Sompote Saengduenchai, which is the same licensing agreement, submitted as Exhibit Jor. 7 or Lor. 5, in this case, is a forged document. It is inadmissible that the agreement is the agreement executed by Mr. Eiji and Mr. Noboru Tsuburaya as a show of their appreciation for Mr. Sompote Saengduenchai's assistance saving them from financial difficulties, as claimed by Mr. Sompote Saengduenchai. All three Defendants in the aforementioned case have no right to seek any benefit from that agreement.

With respect to the appeal of the Defendant that the power of attorney is not legal and therefore that Plaintiff is not entitled to file a complaint, the Supreme Court's Intellectual Property and

International Trade Division is of the view that as the Central IP & IT Court has duly decided that issue, the issue does not require consideration.

The first issue that must be considered based on the appeal of the Defendant is whether the Defendant has the right to use the word "ซึบะรายา" or "Tsuburaya" as its trade name. The Defendant gave its answer and adduced evidence stating that Mr. Sompote Saengduenchai had a close relationship with Mr. Eiji and Mr. Noboru Tsuburaya, and Mr. Sompote Saengduenchai saved the Plaintiff from financial difficulties. Therefore, Mr. Eiji and Mr. Noboru Tsuburaya executed a licensing agreement for copyrights in Ultraman works, submitted as Exhibit Jor. 7 or Lor. 5, in return. They had also granted permission verbally to Mr. Sompote Saengduenchai to publicize the name "Tsuburaya" along with Mr. Sompote Saengduenchai's commercial distribution of the Ultraman works since 1970. It is found that the Supreme Court's Intellectual Property and International Trade Division had considered the facts in Supreme Court Judgment No. 7457/2540, which are the same facts as in this case regarding the relationship between Mr. Sompote Saengduenchai and Mr. Eiji and Mr. Noboru Tsuburaya. It was found that Mr. Sompote Saengduenchai was merely a student or trainee. He was not deemed by Mr. Eiji or Mr. Noboru Tsuburaya as having high status, did not jointly invest money or effort in, or participate in the creation of, or jointly create the Ultraman works. The Plaintiff is the sole owner of the copyrights of the Ultraman works, and the agreement executed by Mr. Eiji and Mr. Noboru Tsuburaya as a show of their appreciation for Mr. Sompote Saengduenchai's assistance saving them from financial difficulties, as claimed by Mr. Sompote Saengduenchai, is a forged document. In this case, the Plaintiff has a written statement from Mr. Kazuo Tsuburaya, the Plaintiff's representative who filed this case and the inheritor of the Tsuburaya surname from Mr. Eiji and Mr. Noboru Tsuburaya. He gave that statement to additionally confirm that the word "Tsuburaya" is a surname allowed to be used only by members of the family with the Tsuburaya surname, originally from Sukagawa, Fukushima. The word "Tsuburaya" is a specific term in Japanese and has no translation. It is used only by persons of the Tsuburaya family, which are not many in number. There is no evidence indicating any possibility that Mr. Eiji Tsuburaya, Mr. Kazuo's grandfather, had allowed Mr. Sompote Saengduenchai to use the word "Tsuburaya" in the name of his company. Even though Mr. Kazuo Tsuburaya, residing in Japan, did not give his statement before the Central IP & IT Court, and only submitted a written witness statement, pursuant to rule 31 of the Rules of Intellectual Property and International Trade Cases, B.E. 2540 (1997), it is prescribed that "if one party or both parties request and the court deems appropriate in the interest of justice, the court may permit the submission of a written statement of facts or opinions of the statement giver residing in a foreign country in lieu of bring the statement giver to testify, in whole or in part, in court...." Therefore, when the Central IP & IT Court deems appropriate in the interest of justice to permit the submission of a written statement of facts or opinions because Mr. Kazuo Tsuburaya is the president and chief executive officer of the Plaintiff, who is aware of and involved directly with the facts that are grounds for filing this case, and resides in Japan, and the Defendant has a chance to present any

and all evidence (if any) to fully rebut the witness, Mr. Kazuo Tsuburaya, the Central IP & IT Court may admit the statement of facts or opinions of Mr. Kazuo Tsuburaya as witness. However, it must be carefully heard, as prescribed by rule 38 of the Rules of Intellectual Property and International Trade Cases, B.E. 2540 (1997); "in considering whether a written statement of a person who does not appear in court under.... rule 31.... has a probative value or and, if so, to what extent, the court shall do so with due care, taking into account the nature, characteristics and source of the written witness statement...." Upon consideration of the content of such written statement, it is found to have sequences of events that are reasonable and consistent with the facts concluded under Supreme Court Judgment No. 7457/2550 as thoroughly considered by the Supreme Court's Intellectual Property and International Trade Division. In addition, the Plaintiff has the certificates, submitted as Exhibit Jor. 67 and Jor. 68, and copies of posters and synopses of movies, submitted as Exhibit Jor. 92, which show that since 1970, in which the Defendant claimed that it received verbal permission to use the name "Tsuburaya," Mr. Sompote Saengduenchai did not use the name "Tsuburaya" in his business operation but has always used the name "Chaiyo." He only applied to use the name "Tsuburaya" in 1996 after he started to have a dispute with the Plaintiff regarding copyrights in Ultraman works. The written statement of Mr. Kazuo Tsuburaya therefore has probative value. With respect to the evidence of the Defendant in this case, where Mr. Sompote Saengduenchai testified that he helped Mr. Noboru Tsuburaya, the Plaintiff's representative, by lending money to him during financial difficulties, and in return for that assistance, Mr. Noboru Tsuburaya granted him the right to the copyright in Ultraman works and to use the name "Tsuburaya," Mr. Sompote Saengduenchai adduced the same evidence in his defense in the case under Supreme Court Judgment No. 7457/2550. The Supreme Court's Intellectual Property and International Trade Division in that case did not believe in the evidence adduced by Mr. Sompote Saengduenchai. Therefore, the same claim in the testimony of Mr. Sompote Saengduenchai in this case is also unreliable. The Defendant presented photographs featuring Mr. Sompote Saengduenchai and Mr. Eiji Tsuburaya or Mr. Noboru together, and documents featuring good wishes and the signature of Mr. Eiji Tsuburaya at the end of those documents, as per the photographs and Exhibits Lor. 52, Lor 85 and Lor. 86, to show that Mr. Sompote Saengduenchai had an excellent relationship with Mr. Eiji and Mr. Noboru Tsuburaya. The court is of the view that this evidence is merely photographs of an event, and does not show a close and continuous relationship. It can only show that Mr. Sompote Saengduenchai was somewhat familiar with Mr. Eiji and Mr. Noboru Tsuburaya during a specific time. It does not indicate close familiarity, as close relatives, or mutual gratitude to the extent that the intellectual property right or the name, that is both the surname of family members and the key element of the name of the family's company that is critical to the family business operations of Mr. Eiji and Mr. Noboru Tsuburaya, was given as a gift as claimed by Mr. Sompote Saengduenchai. In particular, if the name "Tsuburaya" could be used as the name of the company of Mr. Sompote Saengduenchai, it may affect the reputation and business of the actual Tsuburaya family. If permission was actually granted for the use of the name in this significant matter, then it should be made in writing, not verbally, as groundlessly claimed by Mr. Sompote

Saengduenchai. Other evidence than the testimony of Mr. Sompote Saengduenchai that may prove that Mr. Sompote Saengduenchai gave financial assistance at the time Mr. Eiji and Mr. Noboru Tsuburaya encountered difficulties was not found. With respect to the licensing agreement, submitted as Exhibit Jor. 7 or Lor. 5, claimed by the Defendant that the content therein is the implied grant of permission to use the name "Tsuburaya," as the facts are conclusive under Supreme Court Judgment No. 7457/2550 that the agreement is a forged document, it is therefore inadmissible that there was implied permission as claimed. The Plaintiff's evidence has more probative value than the evidence of the Defendant. It is found that Mr. Sompote Saengduenchai has no close relationship with Mr. Eiji and Mr. Noboru Tsuburaya, and that Mr. Sompote Saengduenchai did not help the Plaintiff to survive the financial difficulties as claimed. In addition, when the licensing agreement, submitted as Exhibit Jor. 7 or Lor. 5, claimed to have been executed in return for the aforementioned relationship and assistance, is a forged document, this case is reasonable and can be admitted that Mr. Eiji and Mr. Noboru Tsuburaya did not grant permission to Mr. Sompote Saengduenchai to publicize the name "ສິນຮາບູຮ່າ" or "Tsuburaya" simultaneously with Mr. Sompote Saengduenchai's commercial distribution of the Ultraman works. It is believed that the Defendant intentionally used the name "Tsuburaya" that is the surname of Mr. Eiji, Mr. Noboru, and Mr. Kazuo Tsuburaya, which is a key element of the name of the Plaintiff, a company inherited within members of the Tsuburaya family, as the name of the Defendant in bad faith and claimed that Mr. Eiji and Mr. Noboru Tsuburaya, who already passed away, granted permission to it to use that name. Therefore, the Defendant has no right to use that name. With respect to the Defendant's answer and adduction of evidence in defense that the Plaintiff did not use the words "Tsuburaya Productions" and "Tsuburaya" but used the words "Tsuburaya Prod." with a picture of a plane, and that any persons could use the word "Tsuburaya," when the evidence of the Plaintiff is conclusive that the Defendant intentionally used the name "Tsuburaya" in bad faith, claiming that Mr. Eiji and Mr. Noboru Tsuburaya granted permission to it for such use, the aforementioned claim of the Defendant is therefore inconsistent with the defense presented earlier that the use of that name was authorized. It is therefore not necessary to consider the Defendant's aforementioned claim, as it is not significant to the case that should be considered. The Defendant's action is infringement of the right to use the name, pursuant to section 18 of the Civil and Commercial Code, which prescribes that "If the right to the use of a name by a person entitled to it...., or if the interest of the person entitled is injured by the fact that another person uses the same name without authority, then the person entitled may demand from the other abatement of the injury. If a continuance of the injury is to be apprehended, he may apply for an injunction." This issue in the Defendant's appeal is unreasonable.

The next issue in the appeal of the Defendant that must be considered is whether the complaint of the Plaintiff is barred by prescription. The Defendant appealed that the Plaintiff sent the Defendant a letter dated 1 October 1997 to ask the Defendant to stop using the name "Tsuburaya" so it is deemed that the Plaintiff was aware of the wrongful act and the person committing it before 1

October 1997. The Plaintiff filed its complaint in this case on 31 August 2004, so its complaint is precluded by prescription. The court is of the view that as long as the Defendant illegally uses the Plaintiff's trade name, the wrongful act still exists, thereby enabling the Plaintiff to enforce its claims at all times until the Defendant stops the wrongful act. As within a year before the filing of the complaint the Defendant had not stopped the use of the Plaintiff's trade name, which constitutes continuous commission of a wrongful act, the Plaintiff therefore has the right to file a complaint to prohibit the Defendant from using the Plaintiff's trade name, and the complaint therefore is not barred by prescription. This issue in the Defendant's appeal is unreasonable.

The final issue in the appeal of the Defendant that must be considered is whether the amount of Baht 10,000,000 determined by the Central IP & IT Court to be paid by the Defendant as compensation for the damage arising from the infringement of the right to use of the name in question is too high. The court is of the view that based on Supreme Court Judgment No. 7457/2550, the Supreme Court's Intellectual Property and International Trade Division determined the civil damages that Mr. Sompote Saengduenchai must pay to the Plaintiff due to the act considered infringement of the copyright of Ultraman works in a total of Baht 10,700,000, divided into Baht 500,000 for the loss of income or benefits from the remuneration for the transfer and sale of the copyright or authorization to other persons to use the copyright, and for reducing the value of the Plaintiff's copyrighted works; Baht 200,000 for expenses incurred in giving clarification regarding the Plaintiff's rights to the persons granted the rights by the Plaintiff; and Baht 10,000,000 as damages due to the appointment of another person by Mr. Sompote Saengduenchai to be an agent procuring licensed manufacturers of goods for sale, and the execution of an agreement to grant permission to another person to manufacture and distribute merchandise. The damages determined by the Supreme Court's Intellectual Property and International Trade Division in the aforementioned case because the Defendant distributed or allowed other persons to distribute copyright-infringing merchandise, and the damages in this case are discussed. In this case the Plaintiff cited Tangible Evidence WorJor. 8 and WorJor. 17 to WorJor. 40 and claimed that the Defendant printed the Defendant's trade name, which infringed the right of the Plaintiff, on merchandise related to Ultraman, and Mr. Sampote Thientong, the Plaintiff's attorney, testified that the Defendant infringed the right by falsely claiming and using the name of the Plaintiff without authorization and printing it on the labels or packaging of the merchandise. This indicates that the infringement of the copyright of the creative work in relation to Ultraman by the Defendant and Mr. Sompote Saengduenchai was committed concurrently with the infringement of the right to use the Plaintiff's name "Tsuburaya.". As a result, when, in the aforementioned case, the Supreme Court's Intellectual Property and International Trade Division determined the damages of Baht 10,700,000 in total, if another Baht 10,000,000 in damages is determined in favor of the Plaintiff in this case as determined by the Central IP & IT Court, there would be numerous overlapping portions. Upon considering the adduction of evidence of the Plaintiff, which is not clear about the damage arising from the use of the name and the overlapping portions, it is deemed expedient that the

damages in this case be determined at only Baht 1,000,000. This issue in the Defendant's appeal is unreasonable.

The Central IP & IT Court's verdict that the Defendant shall file an application to register the change of its name with the Partnerships and Companies Registrar so that it would no longer contain the word "ჭიპურაჯა" or "Tsuburaya" and if the Defendant fails to so, the judgment of the court shall be substituted for a declaration of intention, is not correct. This is because pursuant to section 18 of the Civil and Commercial Code, the Plaintiff is only entitled to request the court to prohibit the Defendant from using the name that is identical or similar to the Plaintiff's trade name. It does not give the Plaintiff the right to force the Defendant to register the change of the Defendant's name. This issue is a question of law in relation to public order. Although no litigant appealed, the Supreme Court's Intellectual Property and International Trade Division deems it appropriate to raise it for decision and give judgment accordingly pursuant to section 45 of the Act on the Establishment of the Intellectual Property and International Trade Court and the Intellectual Property and International Trade Procedure, B.E 2537 (1994), taken in conjunction with section 246 and section 142 (5) of the Civil Procedure Code.

The judgment is amended as follows. The Defendant shall pay Baht 1,000,000 in damages together with interest as specified in the judgment of the Central IP & IT Court. The court dismisses the Plaintiff's request that the Defendant shall file an application to register the change in its name with the Partnerships and Companies Registrar so that it would no longer contain the word "ჭიპურაჯა" and "Tsuburaya" and if the Defendant fails to so, the judgment of the court shall be substituted for a declaration of intention. The Defendant shall pay court costs in the Central IP & IT Court in lieu of the Plaintiff. The lawyer's fee is fixed at Baht 20,000. The court's fee shall be paid in lieu of the Plaintiff in the same amount as the amount in dispute in the case won by the Plaintiff at the appeal stage. Apart from the amendment, all shall remain in accordance with the judgment of the Central IP & IT Court. The court costs with respect to the complaint and the counterclaim in the appeal stage shall be borne by the responsible parties.

Mrs. Tassanee Jansanjai Thammakane

Mr. Aram Senamontri

Mr. Anan Wongprapararat

Red Case No. TorPor. 36/2550

Central Intellectual Property and International Trade Court

2 December 2014

The hearing of the Supreme Court's judgment was scheduled for today. No litigants appeared.

The Plaintiff and the Defendant were duly informed of the appointment but did not appear. Therefore, the judgment was not read and it shall be deemed that the litigants duly acknowledged the judgment.

The reading was reported.

A decree shall be issued in accordance with the judgment.

Read.

Recorded/Read by -signature-

(not present) Plaintiff

(not present) Defendant